



## State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

## Insurance Department

TODD E. KISER  
*Insurance Commissioner*

### Bulletin 2014-\_\_

**To:** Title Insurers, Individual Title Insurance Producers, Agency Title Insurance Producers and Escrow Agents

**From:** Todd E. Kiser, Utah Insurance Commissioner

**Date:** October \_\_, 2014

**Subject:** **Required Retention of Title and Escrow Records Pursuant to 31A-20-110 and 31A-23a-412**

The purpose of this Bulletin is to highlight for title insurers, individual title insurance producers, agency title insurance producers and escrow agents the statutory requirements related to retention of title related records and escrow related records.

Section 31A-20-110(1) of the Utah Code Annotated ("U.C.A.") specifically controls retention of title related records and does not apply to other lines or types of insurance related records. This section requires records related to a *title search and examination*, used for purposes of underwriting and determining insurability, be retained for not less than fifteen (15) years after the policy is issued.

U.C.A. §31A-23a-412 applies generally to all lines and types of insurance conducted in Utah, including *escrow* transactions involving real property. Subsection (5)(a) of §31A-23a-412 requires books and records be retained and be available for inspection for the remainder of the current calendar year plus three full additional years.

It is the interpretation of the Utah Department of Insurance ("Department") that records related to title search, examination and underwriting used to determine insurability must be retained and be available for inspection for not less than fifteen (15) years after the underlying policy is issued. Records related solely to escrow<sup>1</sup> must be maintained for three full calendar years plus the rest of the calendar year in which the policy is issued.

---

<sup>1</sup> 31A-1-301(58) (58) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or  
(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

The Department recognizes that in practice title related records and escrow related records may be maintained in the same file and may be difficult or impossible to separate. In that case, the entire file must be retained for not less than fifteen (15) years after the underlying title policy is issued.

A record may be maintained either in "its original form or as recorded by any process which can accurately and reliably reproduce the original." U.C.A. 31A-20-110(1).

**DATED** this \_\_ day of October 2014.

---

Todd E. Kiser  
Insurance Commissioner

- 
- (A) a mobile home;
  - (B) a grazing right;
  - (C) a water right; or
  - (D) other personal property authorized by the commissioner.
  - (b) "Escrow" does not include:
    - (i) the following notarial acts performed by a notary within the state:
      - (A) an acknowledgment;
      - (B) a copy certification;
      - (C) jurat; and
      - (D) an oath or affirmation;
    - (ii) the receipt or delivery of a document; or
    - (iii) the receipt of money for delivery to the escrow agent.